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**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/172008

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 09, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a telephone hearing was held on March 22, 2016.

The issue for determination is whether the respondent correctly modified petitioner's prior authorization request for personal care worker (PCW) services.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED] (written appearance only)  
Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Milwaukee County.
2. Petitioner has diagnoses including lumbosacral radiculopathy and COPD, as well as gait abnormality, hypertension, and disseminated lupus. She uses a cane, shower chair, grab bar, and

toilet riser. She requires assistance with activities of daily living (ADLs), and presently lives alone.

3. On October 15, 2015, Better Living Home Healthcare, Inc. requested authorization for 25 hours per week PCW services for a one-year period effective November 10, 2015, PA no. [REDACTED]. On November 11, 2015, a revised PA request was submitted requesting PCW services of 22 hours per week. By a letter dated January 20, 2016, the DHCAA granted 14 hours per week.
4. The DHCAA granted daily time for bathing, dressing, TED hose, and grooming. Additionally 0.5 hours per day were given for incidental services. No time was given for eating, mobility, toileting, transfers or medication assistance.

### **DISCUSSION**

Personal care services are “medically oriented activities related to assisting a recipient with activities of daily living necessary to maintain the recipient in his or her place of residence in the community.” Wis. Admin. Code, §DHS 107.112(1)(a). Covered services include the following:

1. Assistance with bathing;
2. Assistance with getting in and out of bed;
3. Teeth, mouth, denture and hair care;
4. Assistance with mobility and ambulation including use of walker, cane or crutches;
5. Changing the recipient's bed and laundering the bed linens and the recipient's personal clothing;
6. Skin care excluding wound care;
7. Care of eyeglasses and hearing aids;
8. Assistance with dressing and undressing;
9. Toileting, including use and care of bedpan, urinal, commode or toilet;
10. Light cleaning in essential areas of the home used during personal care service activities;
11. Meal preparation, food purchasing and meal serving;
12. Simple transfers including bed to chair or wheelchair and reverse; and
13. Accompanying the recipient to obtain medical diagnosis and treatment.

Wis. Admin. Code, §DHS 107.112(b).

Personal care workers can spend no more than one-third of their time performing housekeeping activities. Like all medical assistance services, PCW services must be medically necessary and cost effective. Wis. Admin. Code, §DHS 107.02(3)(e)1 and 3. At hearing on the issue of modification of a PA request, it is the burden of petitioner or the provider to establish the need and appropriateness of the requested services. Petitioner has done neither based on this record.

The DHCAA approved 14 hours of PCW services each week for the petitioner. To reach this figure the DHCAA initially used the Personal Care Screening Tool (PCST), a computer program it believes will allow it to consistently determine the number of hours required by each recipient. The screening tool allots a specific amount of time in each area the recipient requires help, which the DHCAA's reviewer can then adjust to account for variables missing from the screening tool's calculations. The DHCAA then adjusted the tool's results based upon Department maximum time allowances and considerations of petitioner's medical records.

Petitioner's appeal is specific to transfers and toileting. The respondent reviewed petitioner's medical records and concluded that petitioner had not established a need for assistance with transfers. Petitioner testified that she does need assistance in this regard. Her PCST states that petitioner requires daily assistance with transferring, and specified that she requires hands on assistance with transfers in and out of bed and to/from the toilet, but is able to participate. The respondent's written statement concludes that

petitioner's PA request fails to establish that petitioner's use of durable medical equipment is insufficient to address her transfer needs. I concur that petitioner has not established that she is unable to address her transfer needs with her available assistive devices.

In similar fashion, petitioner's testimony regarding toileting assistance focused on transfers on/off the toilet, and included the assertion that petitioner is unable to address her incontinence issues without assistance. This directly contradicts the petitioner's PCST, which indicates that petitioner is independent with incontinence cares. At this time, the conflicting record does not establish that petitioner needs assistance with toileting.

Petitioner should be aware that if her provider can show a medical need for more time, it can always request an amendment for additional time with evidence to show the need for the additional time. However, based upon the evidence before me I cannot conclude that the reduction to 14 hours per week was wrong.

### **CONCLUSIONS OF LAW**

The DHCAA's modification of the request for PCW hours was appropriate based upon petitioner's medical needs and the Department's policies for PCW approval.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be and the same is hereby dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 11th day of May, 2016

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\sPeter McCombs  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on May 11, 2016.

Division of Health Care Access and Accountability